State of Alaska

Response to National Organic Standards Board's Aquatic Animal Task Force

Recommendation on Operations that Produce Aquatic Animals

Submitted to:

National Organic Standards Board

Prepared by State of Alaska

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Executive Summary

On May 30, 2001, the Aquatic Animal Task Force, a subcommittee of the National Organic Standards Board, released recommendations that did not support wild aquatic species as eligible for organic certification. In developing its position, the Task Force used Final Rule provisions for terrestrial-based livestock operations, despite having stated that this comparison was "impractical". In developing its findings, the Task Force found that there was not adequate producer oversight in marine environment systems to meet the principles of organic production.

Since 1998, the State of Alaska has been providing input to the Board regarding Alaska's marine environment management regime. Several State, federal and private entities contribute to provide a comprehensive marine ecosystem management regime. This marine ecosystem management region, backed by the full authority of Alaska's Constitution and other National and State laws, carefully and continuously manage water quality, wetland and coastline habitat, adverse human impacts on the environment, and the health of aquatic species. Thousands of biologists, scientists, and managers, with a cumulative budget in excess of $100 million annually, are the true stewards of one of the world's greatest natural wonder that is Alaska.

Upon review of the Organic Food Production Act, the State believes wild aquatic species qualify for organic certification.

- We have a continuously monitored and managed marine environment.
- The State's management regime provides constant protection and safety for its aquatic species.
- As evidenced by wild crop standards and "fish" and "wild animals" in the Act, there is strong support that natural systems are eligible for organic certification.
- The State believes an organic producer's use of the management regime in developing an organic plan is completely within the boundaries of the Act.
- The Act supports ecosystems as appropriate site-specific operations.
- The Act completely supports a management system that protects an organic site, as opposed to requiring producer inputs to make an operation organic.

In this Response and attached exhibits, the State has provided a number of recommendations for the Board to consider and incorporate in its recommendations to the National Organic Program. These build on previous submissions provided by the State to the National Organic Program over the past three years. The State of Alaska believes Alaska already has a marine management system in place that can meet the high standards of organic production, and seeks to work with the Board, the National Organic Program, and the U.S. Department of Agriculture to develop and publish regulations for the organic certification wild aquatic species. The State stands ready to assist the Board with any questions it may have.

Background

The State of Alaska (State) is submitting this response to the National Organic Standards Board's (Board) Aquatic Animal Task Force (Task Force) *Recommendations on Operations that Produce Aquatic Animals* (Recommendations). The Task Force did not recommend wild aquatic animals be eligible to be certified as organically produced.

Upon review of the Recommendations, the State has determined that the Task Force did not consider and recognize the unique management practices in Alaska that bring a marine environment into compliance with the Organic Food Production Act of 1990 (Act). In response to the Task Force's Recommendations, the State is providing a thorough overview of the relevant issues and developing recommendations the Board is to consider for establishing wild aquatic species organic certification standards. The Board has authority to recommend organic certification standards for wild aquatic species. [1] In doing so, the Board will meet the intent of the Act and serve as in important leader by bringing a greater awareness and reward to sustainable wild aquatic production management systems.

The seafood production system of Alaska's wild aquatic species meets the definition of an organic production system as intended by the Act. From the mountains that capture the snow, through the wetlands that carry the water to the ocean, and to the ocean itself, human impact on the environment is closely regulated to promote and maintain the ecological balance, achieve natural cycling of resources, and conserve biodiversity. Alaska manages its marine environment to enable the sustainable harvest of its rich fishery resources. These comprehensive management practices are worthy of gaining the opportunity for organic certification. The attention and resources put towards maintaining the ecological balance and harmony of Alaska's marine waters are considerable and lead precisely to the intent of the definition of organic production.

This response:

- Examines the Task Force's rationale and contends reliance should be made on wild crop criteria, rather than on specific livestock criteria;
- Reviews the definition of organic production in relationship to Alaska's management regime;
- Outlines fundamental issues to be considered when applying organic certification standards to a wild aquatic system and addresses those issues; and
- Identifies a number of recommendations for the Board to adopt in developing certification standards for wild aquatic animals.[2]

[1] Organic Food Production Act, 6502 – Definitions:
(11) **Livestock**. The term "livestock" means any cattle, sheep, goats, swine, poultry, equine animals used for food or in the production of food, fish used for food, wild or domesticated game, or other non-plant life.

[2] The State will not discuss the appropriateness of organic certification beyond the point where wild aquatic animals are taken from the water. As learned from Bob Anderson, Chair of the Aquatic Animals Task Force, during his presentation in La Crosse, Wisconsin on June 7, 2001, the focus of the Recommendations was on the life cycle of aquatic species. As Mr. Anderson relayed, the actual production and handling aspects for seafood appear to the Task Force to be akin to other organic foods.

Task Force Use of Final Rule Provisions

When the National Organic Program (NOP) published the Final Rule implementing the Act, it did not include rules governing the certification for wild aquatic animals. As stated by the NOP, this was done because wild aquatic species management systems were not fully understood. The NOP provided the following passage in the Final Rule Preamble:

> *(2) Additional NOP Standards for Specific Production Categories. Many commenters asked that the NOP include in the final rule certification standards for … aquatic species, … . The NOP intends to provide standards for categories where the Act provides the authority to promulgate standards. During the 18-month implementation period, the NOP intends to publish for comment certification standards for apiculture, mushrooms, greenhouses and aquatic animals. These standards will build upon the existing final rule and* ***will address only the unique requirements necessary to certify these specialized operations****. [emphasis added]*[3]

In its Recommendations, the Task Force relied on the Final Rule's criteria for terrestrial-based livestock despite the Preamble statement that "the unique requirements" are necessary to be added to address the specialized operations of wild aquatic species.

The Task Force itself recognized the unique nature of wild aquatic species. In the its Recommendations, the Task Force wrote:

> *The unique physiological and behavioral characteristics of aquatic animals make it* ***impractical*** *[emphasis added] to develop standards by extrapolating from the requirements and restrictions that apply to terrestrial production systems.*[4]

Despite this recognition, the Task Force did not establish recommendations appropriate to wild aquatic species. In developing standards, the Task Force specifically tailored its recommendations for wild aquatic species around the "impractical" terrestrial-based livestock operations. This highlights the Task Force's unfamiliarity with aquatic systems and apparent discount of extensive input obtained in 2000 during the US Department of Agriculture's solicitation and public meetings regarding certification of aquatic species. (See Exhibit A) Despite its own findings, the Final Rule Preamble, the USDA review, and comments submitted by the State and other participants regarding wild aquatic species management systems, the Task Force did not depart from criteria developed exclusively for land systems.

The State believes that the Task Force overlooked the intent of organic production: to deliver to consumers food products that are free of synthetic inputs and that are not produced to the detriment of the environment. The Act gives the Board the authority to develop standards for wild aquatic species. The State has, in the previous submittals and herein, consistently demonstrated that the management and production systems for wild aquatic species meet the five tenets of livestock handling: origin, living conditions, health care, feed, and identification, as appropriate to the species. Given the similarities between wild fish and wild crops, the commitment on behalf of the Board in developing standards for unusual production systems like honey bees, the authority to establish species-specific regulations, and the clear intent of Congress, the Board is compelled to create suitable standards for wild aquatic species.

[3] National Organic Program, Final Rule, Preamble for Applicability.
[4] National Organic Standards Board, Aquatic Animal Task Force, Recommendations.., page 2.

Review of Organic Production Definition

Upon review of the definition of organic production, the State believes that establishing organic certification standards for wild aquatic animals is an appropriate action. Alaska's marine environment is highly managed to maintain ecological balance, appropriate recycling of resources, biodiversity and natural biological cycles. Management practices are implemented with specific care for the long-term health of the marine environment. Identifying the specific site, range and habitat of target species is achievable through managing agencies. If properly managed, marine environments are perfectly suited to qualify for organic certification under the rules of organic production.

DEFINITION

Alaska's management of its wild aquatic species is in complete harmony with the Act and the tenets of organic production.[5] The Task Force did not recommend developing organic certification standards for wild aquatic species because it found wild aquatic species did not meet the criteria for handling terrestrial-based livestock. In the previous section, the State demonstrated why it was inappropriate for the Task Force to compare a wild aquatic system with a terrestrial-based system. In this section, the State will review the definition of organic production and show, point by point, why it is appropriate to development organic certification standards for wild aquatic species.

Taken almost precisely from the Act, the Final Rule defines organic production as:

> ***Organic production.*** *A production system that is managed in accordance with the Act and regulations in this part to respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity.* [6]

This definition, and supporting definitions developed by the Board, include terms such as ecological production management system, ecological balance, ecological harmony, biodiversity, biological cycles, cultural methods, biological methods and mechanical methods. [7]

Ecology

Ecology generally refers to the science of how organisms interact with one and other, and their interaction within the environment. A general definition for ecology is as follows:

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[5] **Note**: While Alaska supports and encourages organic certification standards for wild aquatic species under a national umbrella, we will restrict our response to the Task Force recommendations based on Alaska's management regimes.

[6] Final Rule for National Organic Program, Subpart A - Definitions, 205.2 Terms Defined.

[7] The definition of "organic agriculture", as defined by the Board is:

> "Organic agriculture is an ecological production management system that promotes and enhances biodiversity, biological cycles and soil biological activity. It is based on minimal use of off-farm inputs and on management practices that restore, maintain and enhance ecological harmony." *National Organic Standards Board definition for organic agriculture, April, 1995, revised June 2000.*

The Board has further enhanced the definition through its draft Principles of Organic Production and Handling.

> "1.1 Organic agriculture is an ecological production management system that promotes and enhances biodiversity, biological cycles, and soil biological activity. It emphasizes the use of management practices in preference to the use of off-farm inputs, taking into account that regional conditions require locally adapted systems. These goals are met, where possible, through the use of cultural, biological, and mechanical methods, as opposed to using synthetic materials to fulfill specific functions within the system." *National Organic Standards Board draft Principles or Organic Production and Handling, May 7, 2001.*

> **Ecology**: 1. a) a branch of biology that deals with the relations between living organisms and their environment b) a complex of relations between a specific organism and its environment. …[8]

Putting together the term "ecological" with "harmony", "balance" or "production management system", suggests a production system that considers the natural balance of an environment and naturally occurring organisms, the importance of uninhibited interaction between organisms, and provisions of adequate space to live and populate. Alaska's wild aquatic management system, by Constitutional mandate and by the demand of its residents, is designed to operate according to these sustainable concepts.

Biodiversity and Biological Cycles

Biodiversity considers the diversity of organisms in an ecosystem. Production systems that promote, enhance, and conserve biodiversity acknowledge an appreciation for the important interrelationship between all species regardless of existing commercial value. Biological cycles are the naturally occurring cycles within an ecosystem. Biological cycles include items like seasons, growth patterns of organisms, or long-term shifts in weather patterns. Biological cycles and biodiversity in a marine environment can be greatly disrupted without constant monitoring. That is why Alaska expends significant personnel and other resources to maintain essential fish habitat and minimize adverse human impacts. Strict laws have been implemented at all levels of development to protect and maintain the natural rhythms and productivity of Alaska's marine environment. Through these laws, the State has developed oversight policies like the Sustainable Salmon Fisheries Policy (included with Exhibit B under Alaska Department of Fish & Game), and earned international recognition by the Marine Stewardship Council for its management regime through gaining the first-ever sustainability certification given to a fishery system.

Management Practices

Sound management practices are a key component in adherence to the definition of organic production. These include cultural, biological and mechanical management practices. Discussions with personnel from the NOP have provided the State with the general concepts behind these practices.[9]

Cultural management practices refer to the long-term actions of the participants that bring the system into ecological harmony or balance. In managing the marine environment, among other measures Alaska has strict permitting requirements for development around wetlands to assure maintenance of the natural balance afforded from these rich areas. Directly related to fisheries, escapement goals for wild aquatic species and resource assessments are examples of cultural practices that assist in maintaining an adequate level of diversity in the marine environment. Other actions might include restrictions on forage fish harvests and attention to fluctuations in species populations.

Biological management practices are the human inputs that go into a system. Alaska does not actively put inputs into the marine environment because the environment is self-sustaining and does not require additives. This practice of not adding inputs is intentional and critical to the

[8] Websters New World Dictionary of the American Language, Simon and Schuster, New York NY, 1984.
[9] Interview with Mark Keating, National Organic Program, July 6, 2001.

health of the marine environment, and; therefore, earns the distinction of being compatible with the Act. *(See following discussion on Invasive v. Protective Management Systems.)* Alaska looks to monitor and minimize inputs in an effort to maintain the marine environment for the long-term health of its wild aquatic species. In attending to minimization of inputs, Alaska is far ahead of other organic operations in the requirement of reducing off-farm inputs.

Mechanical management practices pertain to the actual, physical tools used in the production process. For example, a farmer would not use a machine that had an adverse effect on the ecological balance of an operation. In terms of pre-harvest of wild aquatic species, there is little direct handling of the animal beyond resource assessments and species testing. The overall effect of these activities on the ecosystem is minimal and, through the knowledge obtained, contributes to the health of the marine environment. However, harvesting and processing operations have the ability to disrupt the ecosystem. Due to this, State and federal management agencies monitor and enforce harvest activities, push for greater product yields, impose discard restrictions, require gear that improves catch of targeted species, apply restrictions on harvest amounts/areas/times/waste discharge, and other practices that reduce the potential deleterious affects of fishing.

Site-specific Conditions

The final component of an organic production system is "site-specific conditions". Initial determination of site-specific conditions involves the recognition of boundaries and attributes of an operation's site. Site-specific conditions in organic management include the area available for feeding and living, the site's carrying capacity, its suitability to accommodate the natural behavior of the species, and its capacity to recycle the animal's waste.

The Board has recommended organic plans be given a significant degree of latitude in consideration of "site-specific conditions".[10] This indicates a producer must consider the intricacies of the habitat and how it meets the needs of the organisms. Developing appropriate site-specific conditions for marine environments requires an appreciation for the unique attributes of these systems and their effect on the organisms. In Alaska, bodies of water, be they lakes, streams, oceans or ecosystems, are thoroughly documented by the US Department of Interior and Alaska Department of Natural Resources. Significant research from agencies like the US Department of Commerce and Alaska Department of Fish & Game, contribute to the knowledge base regarding the ecosystem attributes within these recognized boundaries.

[10] National Organic Standards Board, Access to Pasture, Livestock Committee Recommendation June 7, 2001

Fundamental Issues Relevant to Wild Aquatic Species

The intent of this section is to provide information about the fundamental issues surrounding organic certification for wild aquatic species, including a review of Congressional and Board intent.

SCALE

Large Bodies of Water Are Appropriate
The definition for organic production states there must be a site-specific operation. While this indicates an organic plan must define a finite parcel of land or water, there is no prescribed limit to the size of a site in the Act or Final Rule. An organic production system can be confined to an area less than an acre of land or as big as a valley. Further, given the inclusion of fish in the definition of livestock, there is direct support that an organic production system may be a lake, bay, sea or ocean.

Attributes of an Organic Site
Consideration of ecological balance and biological cycles often requires varying sizes of operations to meet the needs of the targeted production species. Therefore, scale considers not just the size of an operation, but also the amount of production expected and the site's natural carrying capacity for that species in relationship to all other species. As indicated by the Livestock Committee in its Access to Pasture paper:

> *Organically managed pasture should produce the quantity and quality of edible plants suitable to the species, stage of production, and number of animals. Pasture contributes to preventive health care management by enabling ruminants to develop and reproduce under conditions that reduce stress, strengthen immunity, and deter illness. Pasture affords ruminants the freedom of choice to satisfy natural behavior patterns. Pasture assures a relationship between the animal and land that satisfies both organic principles and international standards for organic livestock.*[11]

Maintaining a marine environment is no different than maintaining a pasture for livestock. If a wild aquatic species operation exists in a marine environment management system that adheres to the principles of organic production, those species should be eligible for certification.

It appears the Task Force believes there is a limit to site size and restrictions on water-based sites. In the recommendations, the Task Force wrote:

> *The Task Force believes that organic management must be predicated on the producer's site-specific application of a recognized standard reflecting allowed and prohibited practices and materials. The organic certification of wild captured aquatic animals essentially implies that entire ecosystems can be organic, whereas the OFPA places the boundaries for certification at the level of the operation.*[12]

From this finding it is unclear what the Task Force considers appropriate. Bodies of water can be defined down to degrees of latitude and longitude.

The State believes that through strict, deliberate management of adverse human actions, a marine environment has the ability to qualify for organic certification. The

[11] National Organic Standards Board, Access to Pasture, Livestock Committee Recommendation June 7, 2001
[12] Aquatic Animal Task Force, Recommendations.

State manages its marine environment for the long-term sustainability of all organisms. All proposed human activities are reviewed to determine their impact on the marine environment. The State fully supports site-specific applications for organic operations, but does not support the Task Force's reasoning that there is a limit to size and attributes.

CONTROL: A MISUSED CONCEPT

Oftentimes the concepts of "control" and "degree of producer control" are used to qualify what is or is not an organic production system. In the Board's *Livestock Committee Proposed Recommendations on Wild Animals* from 1998, the Committee provided the following rationale for prohibiting wild animals, particularly fish, from receiving organic certification.

> *The inability to ensure compliance with an organic plan concerning feed, medical treatment, living conditions and certifier inspection should preclude the certification of animals, including fish, which spend significant portions of their life beyond the producer's control.*[13]

Despite the absence of the word "control" in the Act, this concept continues to be used in error.

Use of Control in the Task Force Recommendations

In the Recommendations, the Task Force uses the concept of control in its review of why wild aquatic systems would not qualify under the livestock living condition criteria.

> *With regards to living conditions, this requirement entails establishing a distinct, defined space that provides livestock with appropriate shelter and mobility and protects them from prohibited practices and inputs.*[14]

The suggestion that producers are to protect products from prohibited practices and inputs indicates the importance of control to the Task Force. The State has found this notion to be applied arbitrarily. There are a number of examples in organic production systems where contact with prohibited practices and inputs is not an automatic elimination of the contaminated product. There is even direct consent by the Task Force in the Recommendations, to allow for pollutants and prohibited substances to contact organic products within an aquaculture operation. The Task Force wrote:

> *The Task Force also concludes that the potential for contact between prohibited substances and organically managed aquatic animals in open water netpen systems can be managed through monitoring included in the organic system plan. The prohibition on contact with prohibited substance, particularly those not intentionally introduced into the production process,* ***contains some allowance for genuinely unavoidable and incidental contact.***[15]

These open water netpen systems would occupy the same oceans in which wild aquatic species live. In its recommendations for aquaculture, the Task Force supports an allowance for unavoidable and incidental contact not intended in the production process, yet does not for wild aquatic animals.

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[13] National Organic Standards Board, Livestock Committee Proposed Issue Paper and Recommendations, October 27, 1998, Livestock Committee Proposed Recommendations on Wild Animals.
[14] Aquatic Animal Task Force Recommendations.
[15] Aquatic Animal Task Force Recommendations

The Task Force and Board, through past action, have conceded that regardless of where the organic operation is, there may be contact with unintended, non-organic matter. In this admission, the argument that control is required, diminishes. The Task Force's consent for allowing unintended substances to come in contact with organic food is tantamount to saying, aside from the producer's plan and subsequent actions, all else is acceptable. There is no intent within Alaska's management of the marine environment to have its species come into contact with prohibited substances and the concern then comes down to the level of continuous management applied by the producer.

PRODUCER

Multiple Producers and Government Involvement Acceptable

There is nothing in the Act, Congressional language or Board advisories that limit the number or nature of producers in an organic plan. It is actually quite common for there to be more than one producer in an organic operation. Similarly, there does not appear to be any prohibition against a governmental agency or non-profit agency contributing to an organic production process. It would appear that having a government agency, with the power to regulate and enforce compliance, acting as an essential part of maintaining and protecting an organic production system, would be in the best interest of the consumer.

The State has consistently demonstrated the success of Alaska's wild aquatic production system results from a combination of governmental agencies and private businesses working together to maintain a balanced ecosystem that achieves sustainable resources. In review of the recommendations, the Task Force discarded the role of State and federal agencies in the aquatic production system in Alaska. Repeatedly, the Recommendations pointed to a "producer" and asserted that an individual or entity would not have near enough oversight to adequately meet the intent of the Act. In one section the Task Force writes:

> *the regulated capture of wild aquatic animals is a managed system, albeit one in which many critical management issues exceed the individual producer's influence*[16]

This position disregards the multitude of State and federal agencies, along with dozens of research bodies and non-profit organizations that take part in contributing to the management of our marine environment. (See Exhibit B) Any further consideration of organic certification standards for wild aquatic animals must consider the vital and fundamental role of government and other non-governmental organizations.

INVASIVE VS. PROTECTIVE PRODUCTION SYSTEM

Organic production systems are highly managed production systems that result in an end food product that has less human contaminants and synthetic additives than food from conventional food production systems. An organic production system also occurs in such a fashion as to not degrade the environment and, in the best scenario, will actually lead to an improved ecosystem.[17] As discussed previously, the Task Force relied on the criteria for

[16] Aquatic Recommendations …

[17] National Organic Standards Board, draft Principles of Organic Production and Handling, May 7, 2001:

> "It [organic certification] allows consumers to be confident that organic products are produced according to approved management plans in accordance with organic standards."

livestock for determining whether wild aquatic animals should receive organic certification. Livestock and crop production are completely unnatural activities. Perhaps because the roots of organic production lie in traditional agricultural production there is an essential belief that a producer must do something invasive to an operation to earn the distinction of organic.

Protective Systems are Fully Authorized

Invasive action would mean a producer is expected to restore ecological harmony and natural biological cycles to the production system. While there is support for invasive activity in the Act, there is equal support in the definition of organic production for management practices that maintain and promote ecological harmony and biological cycles. These practices, termed herein as *protective*, are what Alaska employs to manage its marine environment. Protective practices are no less legitimate than invasive practices.

In a number of presentations and comments to the Board, the State has made it clear our management of fisheries and marine environment is protective. Alaska is fortunate to have a system that is generally free of adverse human impacts. In regards to Alaska's wild animals, including fish, organisms are occurring without any direct human intervention. Instead of engaging in invasive practices on the marine environment to make it organic, we have the constitutional duty of protecting the marine environment to preserve its true organic state.

The Board, through its own definition of organic production, advocates protective organic systems. With phrases like "promotes [biodiversity]" and "maintains [ecological harmony]", it is clear management systems that promote and maintain the ecological balance are entirely appropriate for organic certification.

Finally, with provisions for wild crops written directly into the Act, it is clear Congress intended for organic production systems to accommodate protective management systems.

WILD CROPS AND WILD SPECIES

Natural systems are organic

Wild crop standards are written directly in the Act. The first message learned from this is that natural systems are appropriate for organic production. In fact, given the succinct, clear rules for wild crops, it is understood they are more compatible to the definition of organic production than traditional agriculture and livestock operations. Congress most likely developed these standards because wild crops occur naturally without direct human involvement, and so long as they are protected from adverse human impacts, they completely meet the intent of organic production.

Identification of Range Equates Wild Animals to Wild Crops

The Board developed standards for wild crops through the Final Rule. The State believes that wild crops are analogous to wild aquatic species. In the Livestock Committee's 1998 *Proposed Recommendations on Wild Animals*, the committee compared wild crops to wild animals as follows:

> *Fundamental differences in behavior preclude extending the criteria developed for wild crops to animals caught in the wild. Animals enjoy greater mobility which presents challenges to certifying conditions across an undocumented and unpredictable home range.*[18]

This statement indicates that if a wild animal management production system can document and predict the range of its animals, then it can qualify for organic certification. Harkening back to the discussion of scale where we have determined appropriate site size is relative to the species, it is quite possible to define the range of a wild animal. Wild aquatic species migration patterns have been well documented and continue to be studied.

There are dramatically different migration or movement patterns between wild aquatic species. A mussel might live on the same rock in the same bay its entire life. A ling cod may choose to reside in an ocean mountain habitat. A king salmon will travel thousands of miles in its lifetime, leaving its natal stream, thrive in the Pacific Ocean first on microorganisms and later on smaller feeder fish, then finally return to its birth place.

Similarities between wild crops and wild animals are striking indeed. If the general assertion of the Livestock Committee was in error, as the State believes it was, then there is ample cause to develop standards consistent with wild crop regulations. The Final Rule provides the following regulations for wild crops.

> *§ 205.207 Wild-crop harvesting practice standard.*
>
> *(a) A wild crop that is intended to be sold, labeled, or represented as organic must be harvested from a designated area that has had no prohibited substance, as set forth in § 205.105, applied to it for a period of 3 years immediately preceding the harvest of the wild crop.*
>
> *(b) A wild crop must be harvested in a manner that ensures that such harvesting or gathering will not be destructive to the environment and will sustain the growth.*

The wild crop regulations are applicable to wild aquatic species and should provide a framework for wild aquatic species certification.

CONCLUSION TO FUNDAMENTAL ISSUES

Based on the State's findings regarding these critical issues, there is overwhelming support for the establishment of organic certification for wild aquatic species. Through our review, we have conclude:

- Water bodies are appropriate organic sites. **The State recommends the Board develop organic certification standards that permit designation of organic aquatic species sites based on bodies of water.**

- Size is determined by how functional the organic site is as it relates to the organisms within the site. **The State recommends the Board develop organic certification standards that acknowledges the importance of a natural marine environment on wild aquatic species and that reflect this relationship.**

- Control is a misused concept. What is most important to an organic operation is the degree of management. **The State recommends the Board develop organic certification**

[18] National Organic Standards Board, Livestock Committee, Proposed Recommendations on Wild Animals.

standards that reflect the significant level of government oversight and participation in Alaska's marine environment.

- Government participation in an organic plan is not only appropriate, but advantageous to the consumer. **The State recommends the Board develop organic certification standards that reflect the necessary the level of government involvement in managing a marine environment.**

- Protective management systems comply completely with the Act. **The State recommends the Board develop organic certification standards that incorporate the management practices of a protective system.**

- Natural systems, as identified by wild crop standards in the Act, are appropriate for organic certification. **The State recommends the Board develop organic certification standards that reflect the importance and unique characteristics of natural systems, particularly for fisheries.**

- Wild animal ranges are determinable and; therefore, equate with wild crops. **The State recommends the Board develop wild aquatic animal organic certification standards that are comparable to those developed for wild crops.**

State of Alaska Recommendations

The State has reviewed the Task Force's Recommendations regarding aquatic animals and believes several assertions require reconsideration by the Board in light of additional information not considered. This section provides the State's recommendations in the same order as the Task Force's Recommendations. There are several recommendations that are repeated throughout this section.

GUIDING AUTHORITY

1. In citing its authority for developing the Recommendations, the Task Force provided:

> *The Organic Foods Production Act of 1990 (OFPA) is the statutory foundation for the certification of organic agricultural commodities. … The Task Force developed its recommendations on aquatic animal standards for aquaculture and wild harvest production systems based on the ability of producers to comply with the livestock management requirements established in the OFPA.*

The State recommends the Board develop organic certification standards that take into account the unique features of a wild aquatic species system. The State agrees that OFPA, or Act, is the governing law in this matter. However, the State does not believe the Task Force was correct in developing standards for aquatic animals based on livestock criteria. As provided in the preceding discussion on the *Task Force's Use of Final Rule Provisions*, use of the livestock provisions is not appropriate. The Board has the flexibility to develop standards that meet the various concerns of livestock operations (i.e. health care, feed, living conditions), but that are appropriate to natural marine environments.

ORIGIN OF SPECIES

2. The Task Force concluded:

> *… the OFPA mandates that a producer must be responsible for introducing the specific animals produced on their operation.*

The State recommends the Board develop appropriate organic certification standards for the introduction of wild animals into a natural system. The Act allows for wild animals in its definition of livestock. Therefore, the Act intended that wild animals could be brought into an organic operation by virtue of natural means. If there is a *mandate* for a producer to directly introduce livestock (as if by hand), there is an overriding mandate that it can occur naturally as well.

Similar to wild crop standards under the OFPA 6513(f), the State recommends the Board develop organic certification standards that establish a period of time prohibited substances must be absent from an area before naturally occurring species can be determined as organic. A marine environment, like Alaska's, that manages human impacts on the system will provide the necessary level of oversight to assures the consumer that the food product comes from an organic production system, as defined in the Act. With standards that create some certainty that a habitat is free of prohibited substances were wild aquatics live, there is certainty that offspring will be born and raised in a manner consistent with the Act.

3. The Task Force writes:

   "This principle [OFPA "mandate" that origin is identified] is reflected in the origin of livestock provisions in the NOP final rule"

   The State recommends the Board not rely on the Final Rule provisions regarding livestock to develop organic certification standards for wild aquatic species. As discussed in the section titled, *Task Force Use of Final Rule Provisions*, this is an inappropriate use of the Final Rule.

4. In regards to origin of species, the Task Force writes:

   These requirements are not satisfied in wild harvest systems in which a producer has no managerial responsibility or direct contact with the animal until the time it is captured.

   a.) **The State recommends the Board develop organic certification standards that recognize the use of fishery management plans, and other appropriate government oversight activities, in developing organic plans for wild aquatic species.** As discussed in the earlier section entitled *Producer*, the State believes the Task Force is incorrect in assuming there is but one producer in a marine environment management system. In fact, there are several government agencies that contribute to the overall health of the marine ecosystem.

   b.) **The State recommends the Board develop organic certification standards that consider the research of governmental agencies when determining the origin of wild aquatic species.** The Task Force is in error when it contends that producers do not know the origin of the animals they are harvesting. Depending on the species, there is a significant amount of existing knowledge indicating its origin. Through genetic testing, a salmon can be linked to its natal stream. For identification purposes, hatchery and wild salmon are tagged in their juvenile life stages. (See Exhibit C) Slow moving shellfish are easily assigned to small areas. The movement patterns of species are varied and require a species by species review to determine if those animals come from areas that do not qualify under organic plans.

   The Task Force overlooked a number of State, federal and research organizations that provide important insight on the origins and birth habits of Alaska's wild aquatic species. A sample of relevant agencies and programs is:

   - Alaska Department of Fish & Game (AF&G), Commercial Fisheries Division (CFD), Gene Conservation Laboratory,
   - AF&G/CFD, Mark, Tag and Age Laboratory,
   - Department of Interior (DOI), US Fish & Wildlife (USF&W), Genetics Laboratory,
   - US Department of Commerce (USDOC), National Ocean and Atmospherice Administration (NOAA), National Marine Fisheries Service (NMFS), Alaska Fisheries Science Center (ASFC) Auke Bay Laboratory (ABL),
   - USDOC/NOAA, Fisheries-Oceanography Coordinated Investigations (FOCI),
   - USDOC/NOAA, Pacific Marine Environmental Laboratory (PMEL),
   - USDOC/NOAA, Coastal Ocean Program (COP),

- USDOC/NOAA/NMFS/AFSC Resource Assessment and Conservation Engineering Division (RACE),
- USDOC/NOAA/NMFS/AFSC Resource Ecology and Fisheries Management Division (REFM),
- University of Alaska-Fairbanks, School of Fisheries and Ocean Science's North Pacific Marine Research Program (SFOS/NPMRP),
- North Pacific Fishery Management Council (NPFMC), Ecosystem Committee (EC),
- NPFMC, Science and Statistical Committee (SSC),
- Pacific States Marine Fisheries Commission (PSFC),
- International Pacific Halibut Commission (IPHC),
- North Pacific Anadromous Fish Commission (NPAFC),

See Exhibit B.

5. The Task Force writes:

   Hatchery raised juveniles are typically used to support established wild populations and a producer capturing mature adults would be unlikely to distinguish the origin of a specific animal.

   The State recommends the Board develop organic certification standards that consider the research of governmental agencies when determining the origin of aquatic species. See discussion under #4b.

6. In its opening discussion on aquacluture and origin of livestock, the Task Force contends:

   … *the OFPA requires a producer to pro-actively select the animals that are organically managed on his or her operation.*

   The State recommends the Board develop organic certification standards that establish appropriate methods for determining a species origin and habitat conditions at birth. The Act does not actually use the word *select*, which has important meaning in this context. To actively select an animal indicates a process whereby the producer would physically inventory the animals and pull out those to be organic. This is not what the Act states.

   Under 6509(b), in the discussion of Breeder Stock, the Act says:

   (b) **Breeder Stock**. Breeder stock may be purchased from any source if such stock is not in the last third of gestation.

   This indicates that so long as a producer can identify the origin of the species as having come from parents that meet the conditions of an organic plan within the last few stages of its embryonic state, the species can be determined as organic. As this pertains to wild aquatics, it could be determined that fish born from stocks and raised in a site that has been determined to meet the conditions within an organic plan, meets the origin requirements.

   Under 6509(e)(1), the Act discusses poultry products and the day old requirement. The Act says:

> (1) **Poultry**. With the exception of day old poultry, all poultry from which meat or eggs will be sold or labeled as organically produced shall be raised and handled in accordance with this chapter prior to and during the period in which such meat or eggs are sold.

The State recommends the Board not rely on the Final Rule provisions regarding livestock to develop organic certification standards for wild aquatic species. This section says poultry must be under an organic plan within the second day of its life. To determine from this passage that a producer must physically *select* organic species, appears to be stretching the intent of the Act. As discussed under #3 above, comparing wild aquatic animals to chickens in not appropriate.

FEED REQUIREMENTS

7. The Task Force writes:

> *the OFPA requires that producers provide livestock 'organically produced feed that meets the requirements of this title.' The Task Force understands this provision to require that the producer must provide an adequate amount of feed materials appropriate to the species and that each component of the diet is an allowed material. Under the NOP final rule for terrestrial livestock production, any feed ingredient that can be organic – that is, feed materials that are agricultural commodities – must be organically produced.*

The State recommends the Board not rely on the Final Rule provisions regarding livestock to develop organic certification standards for wild aquatic species. Use of Final Rule is not appropriate. See discussion under #3.

The State recommends the Board develop organic certification standards that consider nutrients and food, found naturally occurring in a marine environment, as acceptable organic feed so long as other conditions are satisfied. The Act requires a producer of livestock to "provide" organically produced feed. The Task Force does not believe a marine ecosystem is organic if wild aquatic system managers reduce the adverse human impacts on the system. The State believes that absent strict management controls human impacts, directly or indirectly, could seriously impact the natural ecological balance incumbent in a natural system. For instance, if heavy fishing occurred on stocks of natural forage fish, repercussions would be experienced up the entire food chain. The State believes it is reasonable to identify naturally occurring nutrients and food as organic if the marine environment is managed in an effort to maintain ecological harmony, biodiversity, and biological cycles, by controlling the adverse effects of human development.

In this age of oil spills and nuclear meltdowns, there is little doubt that humans have the potential to dramatically alter the natural ecosystem of the marine environment. If improperly managed, the marine environment can be adversely altered by humans. Alaska is fortunate on two counts. First, the State has a constitutional requirement that does not allow human actions to degrade Alaska's marine environment. It simply is not an option. Second, the State is small in population and our huge land area has yet to be the site of large human developments which could impact the marine environment. Any that exist today are under significant federal and State regulation.

The State recommends the Board develop organic certification standards that consider measures enacted by fisheries management agencies that are intended to

preserve the natural feeding order within a marine ecosystem. Alaska's wild aquatic animals production system does manage the availability of feed in its effort to maintain ecological balance and biodiversity. The feeding requirements of commercially valuable species are researched by a number of agencies and organizations. The health of forage fish and micro-organism abundance is monitored. Implementation of management actions are available at any time if a key link in the food cycle chain is in jeopardy. Agencies and programs that work to maintain a balanced feeding regime in the North Pacific include:

- USDOC/NOAA/FOCI,
- USDOC/NOAA/PMEL,
- USDOC/NOAA/COP,
- USDOC/NOAA/NMFS/AFSC/RACE,
- USDOC/NOAA/NMFS/AFSC/REFM,
- USDOC/NOAA/NMFS/AFSC/ABL,
- UAF/SFOS/NPMRP,
- UAF/SFOS, Fisheries Division
- NPFMC/EC,
- NPFMC/SSC,
- AF&G/CFD Soldotna Limnology Laboratory.

See Exhibit B.

8. In regards to feeding requirements, the Task Force concludes:

> … *a producer who captures wild aquatic animals has no direct involvement in providing their feed materials and is incapable of fulfilling the managerial responsibility required by the OFPA.*

The State recommends the Board develop organic certification standards that recognize the use of fishery management plans, and other appropriate government oversight activities, in developing organic plans for wild aquatic species. A marine environment that meets the intent of the Act will likely have more then one producer. See the discussion under #4a.

The State recommends the Board develop organic certification standards that consider measures enacted by fisheries management agencies that are intended to preserve the natural feeding order within a marine ecosystem. The Task Force conclusion under this item also fails to acknowledge the number of State, federal and research organizations that contribute to the body of knowledge on feed, feeding patterns, and monitoring of essential fish habitat. See Exhibit B.

HEALTH CARE PRACTICES

9. In regards to health care, the Task Force writes:

> *The NOP final rule incorporates these provisions and includes the requirement that producers cannot withhold treatment from a sick animal, even if such treatment resulted in the loss of its certification.*

The State recommends the Board not rely on the Final Rule provisions regarding livestock to develop organic certification standards for wild aquatic species. The Task Force should not have used the Final Rule in developing recommendations for wild aquatic species. See discussion under #3.

10. Under further discussion on health care, the Task Force concludes:

> *… organic livestock health care management mandates that a producer monitor the health of livestock and use a variety of therapies including natural and synthetic medications to promote livestock well being when the animal's welfare is in jeopardy. A producer capturing aquatic animals from the wild cannot perform either the pro-active or mandatory intervention responsibilities required in organic livestock health care management.*

a.) **The State recommends the Board not rely on the Final Rule provisions regarding livestock to develop organic certification standards for wild aquatic species.** The Task Force erred in using specific livestock regulations in developing appropriate health care management practices for wild aquatic species. See discussion under #3.

b.) **The State recommends the Board develop organic certification standards that recognize the use of fishery management plans, and other appropriate government oversight activities, in developing organic plans for wild aquatic species.** A marine environment that meets the intent of the Act will likely have more then one producer. See the discussion under #4a.

c.) **The State recommends the Board develop organic certification standards for health care standards for wild aquatic animals within the context of a natural marine environment.** The Task Force's analysis disregards the fishery management systems in place in Alaska that actively monitor the status of all wild aquatic species. Animals that become stricken with an illness or disease are most likely part of the natural biological cycle. Under Alaska's fishery management regimes, a fish is not treated for illness. Rather, the fish most susceptible to disease or illness will not likely survive, creating a suitable environment for the remaining species to reproduce.

The State recommends the Board consider fisheries management actions, such as harvest closures and specific stock research as appropriate health care practices in a natural system. The State's management system responds quickly when it appears a wild stock is in jeopardy. Often times, wide spread illness among wild aquatic species indicates the species is under stress. The management regimes will dedicate considerable focus on that species and its marine environment to determine if the cause of stress is related to humans or part of the natural biological cycle. For example, the salmon stocks along the famed Yukon River have recently not returned as strongly as expected. The species is also showing signs of widespread viral infection. Due to these signs of stress, commercial harvests have been eliminated. Research has begun on a number of fronts including genetic testing, regime shift studies, and predatory effects. Federal and State

biologists have not yet determined the precise cause, but before the species is open for commercial harvests, it will demonstrate the signs of sustainability.

There are a host of agencies and organizations that are concerned with the health of the marine ecosystem and resident organisms. Below is a sample of these agencies.

- USDOC/NOAA/FOCI,
- USDOC/NOAA/PMEL,
- USDOC/NOAA/COP,
- USDOC/NOAA/NMFS/AFSC/RACE,
- USDOC/NOAA/NMFS/AFSC/REFM,
- USDOC/NOAA/NMFS/AFSC/ABL,
- UAF/SFOS/NPMRP,
- UAF/SFOS Alaska Sea Grant,
- UAF/SFOS/FD,
- NPFMC/EC,
- NPFMC/SSC
- State of Alaska Governor's Office, Division of Governmental Coordination (DGC), Alaska Coastal Management Program (ACMP),
- AF&G/Habitat and Restoration Division (HRD),
- AF&G/CFD/ Pathology,
- Alaska Department of Environmental Conservation (ADEC), Division of Air & Water Quality (AWQ),
- ADEC, Division of Environmental Health (DEH),
- ADEC, Division of Spill Prevention & Response (DSP&R),
- IPHC,
- NPAFC,
- US Environmental Protection Agency (USEPA), Office of Ecosystem and Communities (OEC),
- USEPA, Office of Oceans, Wetlands and Watersheds (OOWW),
- Army Corp of Engineers (ACE), Environmental Division (ED).

See Exhibit B for more examples.

LIVING CONSIDERATIONS

11. In a discussion of living conditions, the Task Force writes:

> *The provision of livestock living conditions that are appropriate for the species of animal, the size of their population, and their stage of development are an integral consideration in organic livestock management. … The NOP final rule focuses on living conditions that allow animals to express their natural behavior by providing free movement, access to a suitable outdoor environment, and appropriate bedding and shelter.*

The State recommends the Board develop organic certification standards that detail the actions producers must take to demonstrate the natural system for wild aquatic animals is appropriate to express their natural behavior, provide the free

movement, provides access to suitable outside environment and serve as appropriate bedding and shelter. The State agrees with the Task Force's observation and contends the marine environment found in Alaska is suited to meet these guidelines.

12. The Task Force notes some working members of the wild fish aquatic working group believed natural systems are not suitable as organic sites. The Task Force writes:

    However, other working group members maintained that, as with the provisions for livestock origin and feed ration, natural systems do not equate to organic production. These members maintained that organic management requires that a producer intentionally engage in the production process by using practices and materials sanctioned by the OFPA.

    The State recommends the Board establish organic certification standards that reflect the use of a protective organic system. The State believes the working group's view above conflicts with the Act under 6513(f) that provides for wild crops. Wild crops exist in natural systems and are considered acceptable sites under the Act. Unlike traditional livestock and agricultural crop systems, wild crops require very little intervention by the producer. The previous discussion on *Invasive vs. Protective Management Systems* has important bearing on this comment.

13. In its decision regarding living conditions, the Task Force writes:

    With regards to living conditions, this requirement entails establishing a distinct, defined space that provides livestock with appropriate shelter and mobility and protects them from prohibited practices and inputs. Since a producer of wild aquatic animals is not responsible for performing this task, they cannot fulfill the OFPA's managerial requirement to do so.

    a.) **The State recommends the Board develop organic certification standards that recognize the use of fishery management plans, and other appropriate government oversight activities, in developing organic plans for wild aquatic species.** See discussion under #4a that discusses the involvement of government agencies and research bodies in the organic production system.

    b.) In reaching this conclusion, the Task Force did not consider the number of agencies and research entities that contribute to protecting the natural living conditions of waters in and around Alaska. Agencies that fulfill this requirement include:

- USDOC/NOAA/FOCI,
- USDOC/NOAA/PMEL,
- USDOC/NOAA/COP,
- USDOC/NOAA/NMFS/AFSC/RACE,
- USDOC/NOAA/NMFS/AFSC/REFM,
- USDOC/NOAA/NMFS/AFSC/ABL,
- UAF/SFOS/NPMRP,
- UAF/SFOS Alaska Sea Grant,
- UAF/SFOS FD,
- UAF/SFOS Institute of Marine Science,
- NPFMC/EC,
- NPFMC/SSC,

- State of Alaska Governor's Office/DGC/ACMP,
- AF&G/HRD,
- ADEC/AWQ,
- ADEC/DEH,
- ADEC/DSP&R,
- IPHC,
- NPAFC,
- USEPA/OEC,
- USEPA/OOWW,
- ACE/ED.

These and other applicable agencies are listed on Exhibit B.

14. In its recommendations on living conditions, the Task Force writes:

> *…this requirement entails establishing a distinct, defined space that provides livestock with appropriate shelter and mobility and protects them from prohibited practices and inputs.*

The State recommends the Board develop organic certification standards for wild aquatic species regarding contact with prohibited substance not intentionally introduced into the production process, to contain some allowance for genuinely unavoidable and incidental contact. The Task Force's statement infers a producer has absolute control over its operation. The statement is inconsistent with the Board's recent actions that suggest incidental exposure to unintended pollutants and inputs does not render an operation non-organic. In fact, the Task Force issued a similar position in its Recommendations. As discussed under an earlier section titled, *Control: A Misused Concept*, this argument by the Task Force is inappropriate given its inconsistent use throughout various organic operations.

15. In its discussion of living conditions for aquaculture species, the Task Force writes:

> *The Task Force identified three essential components in the requirements for livestock living conditions in organic aquaculture systems: the provision of a species appropriate production environment; the preservation of environmental quality in the surrounding ecosystem; and the continuous separation of organically and nonorganically managed populations of aquatic animals. The Task Force concludes that a producer must satisfy these requirements by maintaining a production system that restricts the movement of aquatic animals within fixed, recognized boundaries.*

The State recommends the Board develop organic certification standards that require an organic plan verify the production environment is appropriate for the production needs of the species, and a significant effort is made to preserve the environmental quality of the ecosystem. In the excerpt just above, the Task Force finds that species must have an "appropriate production environment", and conversely that the production system must restrict the movement of the aquatic animal within "fixed, recognized boundaries". Depending on the species, this is a tremendous contradiction. There is no more appropriate a production environment than a natural marine environment that is protected under the laws of the U.S. Government and Alaska's Constitution. In the case of farmed salmon, an enclosed net pen is not an appropriate production environment. This can be evidenced by the behavior of farmed salmon when

they are freed from the pen. Rather than return to the confines of the pen, these creatures take to the ocean, feeding among the wild stocks and in some cases, infiltrating the wild salmon's breeding grounds.

16. Under aquaculture, the Task Force writes:

> *The determination of appropriate living conditions must be species-specific and the Task Force believes that the guidelines developed in the final rule for terrestrial species can be adapted to aquatic animals.*

The State recommends the Board develop organic certification standards that define natural marine environments, managed under appropriate fisheries management plans and other government involvement, as appropriate habitats for wild aquatic species. The State agrees that site selection must be species-specific. Again, the most appropriate living condition for any species is its natural environment.

IDENTIFICATION

17. In regards to livestock identification, the Task Force writes:

> *By comparison, the records required under the NOP final rule document the source of the animal, when it was brought under organic management, and how it was fed, cared for, and housed , and slaughtered. The Task Force concludes that while a wild capture producer can document which animals were caught on their operation, such records do not fully convey the information that is required by the OFPA.*

a.) **The State recommends the Board not rely on the Final Rule provisions regarding livestock to develop organic certification standards for wild aquatic species.** The State believes the Task Force inappropriately used the Final Rule in its analysis. See discussion under #3.

b.) **The State recommends the Board develop organic certification standards that recognize the use of fishery management plans, and other appropriate government oversight activities, in developing organic plans for wild aquatic species.** The Task Force inadequately identified the nature of wild aquatic animal production systems in a marine environment. See discussion under #4a.

c.) **The State recommends the Board develop organic certification standards that address issues of identification through an appropriate blend of management techniques, including resource surveys and migration pattern studies.** In a wild aquatic species management system single animals are not branded at birth. In fact, the reproduction process occurs without direct human intervention on the species. However, with wild aquatic management systems, there are a few manners of identification which are critical to sustainability and managing on an ecosystem basis.

First, wild aquatic species stocks are surveyed annually to gauge stock abundance. These surveys provide information to fisheries managers that allow for establishing catch amounts, identifying the health of the resource, and researching the behavior and natural patterns of the species. Agencies and research bodies that contribute to this body of knowledge include:

- USDOC/NOAA/FOCI,
- USDOC/NOAA/PMEL,
- USDOC/NOAA/COP,

- USDOC/NOAA/NMFS/AFSC/RACE,
- USDOC/NOAA/NMFS/AFSC/REFM,
- USDOC/NOAA/NMFS/AFSC/ABL,
- UAF/SFOS/NPMRP,
- UAF/SFOS/FD,
- NPFMC/EC,
- NPFMC/SSC,
- AF&G/CFD Soldotna Limnology Laboratory,
- IPHC,
- NPAFC.

A more complete list is available under Exhibit B.

There is also a growing capability on behalf of researchers to trace certain species, particularly salmon, to their natal streams. Hatchery, and in many cases wild, salmon are given identification marks while in their larval stage. Genetic testing has been applied in certain circumstances to identify species. See Exhibit C.

TASK FORCE CONCLUSIONS

18. In the Task Force's conclusion on wild aquatic animals, it writes:

> *The Task Force concludes that operations that capture wild aquatic animals do not reflect the degree of producer management, continuous oversight, and discretionary decision making that are characteristic of an organic system.*

The State recommends the Board develop organic certification standards that recognize the use of fishery management plans, and other appropriate government oversight activities, in developing organic plans for wild aquatic species. The wild aquatic system in Alaska reflects the necessary degree of producer management. The Task Force did not recognize the nature or involvement fisheries management plans have in wild aquatic species or the breadth of oversight dedicated to protecting Alaska's marine ecosystem.

The State's Constitution requires marine waters to be managed to their highest potential, supporting wild aquatic life. Significant personnel and monetary resources have been and continue to be committed to the management of the marine environment in Alaska. There is zero tolerance for illegal dumping of pollutants in and around the marine environment. Development projects and other activities require thorough scrutiny before they may achieve the necessary permits. A number of proposed projects do not receive permitting because of perceived impacts. The protection of the marine environment is paramount in Alaska.

19. The Task Force added:

> *Producing aquatic animals without violating the livestock origin, feed ration, health care, and living conditions requirements in the OFPA does not make for an organic production system. The inclusion of those requirements in the OFPA necessitates that they be pro-actively managed and that in doing so a producer intentionally choose materials and practices that are consistent with the standards.*

The State recommends the Board develop organic certification standards that meet the intent of the livestock criteria for natural marine environments, but are reasonable and appropriate for a managed marine environment. In this passage, the Task Force puts its argument behind the idea that organic production operations must be invasive. As discussed in an earlier section entitled *Invasive v. Protective Production Systems*, this requirement is simply not the case. There is clear guidance in the Act that promoting and maintaining ecological balance is entirely appropriate. Further, the Act anticipated wild systems by including provisions for wild crops and directly naming wild animals, including fish, in the definition of livestock.

20. The Task Force writes:

> *The Task Force acknowledges the point of view that sustainable natural systems, as the functional model for organic production, could themselves be considered organic. However, the Task Force maintains that such an understanding obscures the continuous producer-level decision making that is essential to the meaningful differentiation of organic production.*

The State recommends the Board develop organic certification standards that satisfies the necessary level of continuous producer-level decision making appropriate to a wild aquatic animal production system. The State recommends the Board consider the actions of fisheries management agencies, and other applicable agencies, in making its determination. Review of this finding by the Task Force brings to bear the question of why, if sustainable natural systems can be organic, they did not establish the standards that must be met to certify marine environments as organic, including the appropriate level of continuous producer decision making. As provided in Exhibit B of this paper, there is considerable producer-level decision making in the management of Alaska's marine environment.

21. The Task Force contends further:

> *Advocates of certifying wild harvest aquatic animal operations argue that natural systems that are protected from deleterious human impacts (specifically unsustainable capture levels and contact with prohibited substances) should be certifiable. However, the Task Force does not consider those conditions to represent a sufficient degree of intentional producer oversight to differentiate between organic and nonorganic management.*

The State recommends the Board review the number and nature of governmental agencies and determine that there exists adequate intentional producer oversight in the management of Alaska's marine environment. In developing this finding, the Task Force failed to list the degree of intentional producer oversight on which it was basing this decision. After the Board reviews this document and accompanied exhibits the State believes the Board will come to a different conclusion. As discussed under #20 above, if the Task Force believes natural systems can be organic, but does not believe protecting those systems from human impacts is enough, then it should have discussed what other conditions must exist.

The State recommends the Board not rely on the Final Rule provisions regarding livestock to develop organic certification standards for wild aquatic species. As discussed in #3, reliance on livestock conditions is not appropriate or applicable when considering wild aquatic animals.

SITE SPECIFIC CONDITIONS

22. The Task Force believes:

> … *that organic management must be predicated on the producer's site-specific application of a recognized standard reflecting allowed and prohibited practices and materials.*

The State recommends the Board develop organic certification standards for site-specific criteria that allow for various bodies of water to be sited in an organic plan. The State has found no supporting information from the Act, the NOP or the Board that indicates a marine environment, be it a stream, lake, bay, sea or ocean, cannot be determined a specific site. Please see discussion above under *Scale.*

23. The Task Force concludes:

> *The organic certification of wild captured aquatic animals essentially implies that entire ecosystems can be organic, whereas the OFPA places the boundaries for certification at the level of the operation.*

The State recommends the Board develop organic certification standards for site-specific criteria that allow for various bodies of water to be sited in an organic plan. Designation of a body of water may include a marine ecosystem. The State believes an ecosystem is not organic without properly placed management controls. In the case of Alaska's marine ecosystem, government agencies and industry contribute to preserve the natural ecological balance through sustainable practices.

24. The Task Force finds a wild aquatic management system is:

> … *one in which many critical management issues exceed the individual producer's influence.*

The State recommends the Board develop organic certification standards that recognize the use of fishery management plans, and other appropriate government oversight activities, in developing organic plans for wild aquatic species. See discussion under #4a.

25. In determining what factors into site-specific considerations, the Task Force writes:

> *Responsiveness to species' fundamental behavioral and physiological requirements must be the primary consideration in this determination.*

The State recommends the Board develop organic certification standards that determine a natural marine environment to be an appropriate site for promoting fundamental behavioral and physiological requirements for naturally occurring aquatic species, subject to adequate oversight. Again, there is no more ideal an environment in regard to species behavior and physiological requirements than that found in a natural system.

26. In regards to pollution and recycling in an aquaculture operation, the Task Force finds:

> *While it is preferable for systems to contain and recycle the nutrients they introduce in production, a completely closed loop is not possible on every operation, including terrestrial ones.*

The State recommends the Board find that wild aquatic animal production systems meet the recycling requirements of the Act. The Act requires operations to foster cycling of resources, promote ecological balance, and conserve biodiversity. It has been acknowledge by the Task Force that complete recycling is not possible in traditional

livestock and agricultural operations. More complete recycling takes place in a wild aquatic animal production system because organisms within the system continue to operate under normal biological cycles.

SHELLFISH AQUACULTURE

27. In regards to shellfish aquaculture, the Task Force found:

> *While filter-feeding represents a natural process and can benefit the environment by cycling excess nutrients, it does not conform with the Task Force's understanding of the OFPA's requirement that producers provide livestock with an organically produced feed ration.*

The State recommends the Board develop organic certification standard that determine a shellfish operations proactively meet the intent of the feed requirements in the Act. The Task Force's opinion does not reflect the cultural management practices that exist in shellfish aquaculture. Producer identification of areas with abundant algae is an essential element to shellfish aquaculture. Such cultural management practices are allowable under the Act and are supported by the Board's work on pasture management.

28. The Task Force continues with shellfish aquaculture by finding:

> *Similarly, there appears to be little or no pro-active health care management in the mollusk production once juvenile life stages leave the hatchery and become established on the operation.*

The State recommends the Board develop organic certification standards that establish health care criteria for shellfish operations by incorporating some existing actions by producers. Shellfish farmers spend considerable time attending to the health needs of their product. For instance, oysters are continually retrieved from their net pens to clean, separate by size, and reposition to maximize growth and productivity. These types of actions allow for surveillance of illnesses and disease if it is visible. Further, flesh testing is required to identify paralytic shellfish poisoning and other problems within the species.

29. In its final determination with shellfish aquaculture, the Task Force writes:

> *In considering the mollusk production as a complete system, the Task Force concludes that there is insufficient compatibility with the requirements of the OFPA to warrant the development of certification standards for such systems. The Task Force concludes that mollusk producers are not called upon to make a sufficient number of the management decision imposed by the statute nor could certification standards create significant differentiation between organic and nonorganic operations.*

The State recommends the Board recognize the role of government in the management of marine environments. The State does not agree with the Task Force's finding in this matter. As discussed under #4a, shellfish producers that participate in a marine environment that is managed at an ecosystem level, with strict care taken to control the adverse impacts of human development, are eligible for organic certification. Given the other constant monitoring activities, akin to traditional livestock production, these operations are eligible for receiving organic certification standards.